IN RE: PETITION FOR SPECIAL HEARING NE/S Yorkway, 140' SE of the c/l of Leeway

7th Councilmanic District

* ZONING COMMISSIONER (2605 Yorkway) 12th Election District * OF BALTIMORE COUNTY

Louis Puglese, et ux Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

* * * * * * * * * * *

* Case No. 89-258-SPH

The Petitioners herein request a special hearing to approve the nonconforming use of the subject property as a four unit apartment building in a D.R. 10.5 zone as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by David G. Johnston of Landex, Inc., the Contract Purchaser, appeared, testified and was represented by John B. Gontrum, Esquire. Also appearing on behalf of the Petition were Douglas Kennedy, a registered professional engineer with KCW Consultants, Inc., who prepared Petitioner's Exhibit 1, Griffith Davis, and Ron Gajewski. Petitioner's Exhibit 1 contains additional notations placed thereon by the attorney for the Petitioner. There were no Protestants.

Testimony indicated that the subject property, known as 2605 Yorkway, was improved by a four unit apartment building in 1943 or 1944. Testimony indicated that there are two units on the first floor of the building and two units on the second floor. The basement is improved with storage and utility space. Tax records submitted into evidence establish that the subject building has been assessed and transferred over the years as at least a four unit apartment building continuously and without interruption since approximately 1943. Testimony and evidence presented substantiates that the building was originally constructed as a four unit

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 XXXXXXXX 887-3353

J. Robert Haines

December 29, 1988

John B. Gontrum, Esquire 809 Eastern Boulevard Baltimore, Maryland 21221

Case No. 89-258-SPH

RE: PETITION FOR SPECIAL HEARING NE/S Yorkway, 140' SE of the c/l of Leeway (2605 Yorkway) 12th Election District - 7th Councilmanic District Louis Puglese, et ux - Petitioners

Dear Mr. Gontrum:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavor-able, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

> ROBERT HAINES Zoning Commissioner for Baltimore County

Dennis F. Rasmussen

JKH:bjs

cc: People's Counsel

apartment building and has been used consistently used as a four unit altered since the original construction.

Numerous other cases have been considered over the years for nonconforming use in the immediate vicinity. Affidavits from those cases that nonconforming uses existed for at least four apartments since prior for the original four apartment units only. The subject property is locat-

The first issue to be determined in a nonconforming use case is

#2605-item-225 #2607-item-226

in SEHE

12 /2

I/We do solemnly declare and affirm,

under the penalties of perjury, that I/we are the legal owner(s) of the property

which is the subject of this Petition.

apartment building since its original development. The evidence tends to indicate the subject property was zoned "D" residential during the 1945 Baltimore County Comprehensive Zoning. The evidence further establishes that the exterior parameters of the building have not changed or been

also were introduced by Petitioner and indicate that the Yorkway units were all built at about the same time in 1943 or 1944 as four unit apartment buildings. Over the years some buildings have added additional units in the basement area. In almost every case, without exception, nonconforming uses have been granted for at least four units. Case No. 89-103-SPYH was decided in September, 1988 for 2532 Yorkway for a similar building in the next block. Additionally, Case Nos. 88-14-SPH and 86-290-SPH found to 1945. In the instant case, the Petitioner requests a nonconforming use ed within a group of buildings in which other properties were previously granted nonconforming use status for four apartments in either Case Nos. 88-377-SPH or 88-456-SPH.

whether or not the property in question was legally and permissibly developed prior to the statutory change which created the alleged nonconforming status. The four unit apartment building in the instant case was constructed prior to the adoption of the 1945 zoning regulations. This property is often referred to by the Petitioner and in this Opinion as an

PETITION FOR SPECIAL HEARING

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve _____ as a legal non-conforming use the following buildings (each with four

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Legal Owner(s):

Louis Puglese, et. ux.

(Type or Print Name)

(Type or Print Name)

411 Fieldstone Court

. 19_5, that the subject matter of this petition be advertised, as

Fallston, Maryland 21047

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Signature

Address.

apartments) located on Yorkway, Baltimore County, Maryland (#2605, #2607)

Property is to be posted and advertised as prescribed by Zoning Regulations.

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

apartment building. This building is an apartment house as that term was defined in the original 1945 Baltimore County Zoning Regulations (B.C.Z.R.). That term was then defined as:

> "A detached building used and/or arranged for occupancy as dwellings for three or more families as separate housekeeping units. All such housekeeping units shall have unity in use and be supplied, in common, with heat, sewerage and/or other public convenience or

There is evidence of heat and public utilities in common and an acceptable number of units. Therefore, the building does comply with the "D" residential zoning placed on the land on January 2, 1945 for an apartment nouse. "D" residential zoning permitted all uses as provided for under a "C" residential zone and "C" residential zoning permitted apartment houses as a matter of right.

The Petitioner has established that the building existed prior to January 2, 1945 or the beginning of zoning regulations. The Petitioner has also established that the building was acceptable under the "D" residential zoning in place from January 2, 1945 through 1955.

The second principal to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the properey. A determination must be made as to whether or not any change that has occurred is a different use and therefore breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

Clearly, the use of the subject property has not changed since 1943. The property has always been a four unit apartment building and there have been no changes or interruptions in that use. The subject

property was also in compliance with the original "D" residential zoning for an apartment house for four (4) apartment units.

The Petitioner does not claim an expansion of this use beyond the original four apartments. The evidence establishes the apartments in the subject building have been occupied continuously and without interruption since approximately 1944.

Pursuant to the advertisement, posting of the property, and public hearing held, and for the reasons given above, the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 29 day of December, 1988 that the Petition for Special Hearing to approve the nonconforming use of 2605 Yorkway as a four unit apartment building, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

> Zoning Commissioner for Baltimore County

JPH:bjs

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson. Maryland 21204 (301) 887-3353 J. Robert Haines

December 29, 1988



Community Development Administration 45 Calvert Street Annapolis, Maryland 21401

Benton Mortgage Company 5731 Lyons View Drive Nashville, Tennessee 37919

RE: Yorkway Apartments

Gentlemen:

I have this day taken testimony and evidence with respect to the

2513 Yorkway 2515 Yorkway

2519 Yorkway 2521 Yorkway 2506 Yorkway 2611 Yorkway 2613 Yorkway

2625 Yorkway 2605 Yorkway 2607 Yorkway 2627 Yorkway

2629 Yorkway 2504 Yorkway 2510 Yorkway 2511 Yorkway

Based on the testimony and evidence presented, I am issuing findings of fact and conclusion of law indicating that these buildings all have legal nonconforming uses as four unit apartment buildings.

R. 3078.35' 14' CONC. ALLEY L= 242.00'7 549'17'40'E 46.58' M2'CONC.WALK. 2 STORY BRICK PARTMENT BLOG. *2605 49.0 LCONC. 4'CONC.5 110.16' TO THE SOUTHEASTERN SIDE OF LEEWAY N49° 21'00'W 49.00'

> YORKWAY (WIDTH VARIES)

CONC. CURBY LA'CONC. WALK

PART OF BLOCK NO.9 PLAT NO.4 OF "DUNDALK" C.W.B. JR. 12 FOLIO 63

ETTTIONE LEITHOUSEN. 2 EXHIBIT 9

KCW Consultants, Inc. Civil Engineers and Land Surveyors 1777 Reisterstown Road Commercentre, Suite 175 Baltimore, Maryland 21208

PLAT TO ACCOMPANY DESCRIPTION 2605 YORKWAY

12 ELECTION DISTRICT BALTIMORE COUNTY, MP.

DATE NOV. 21, 1988

SCALE: / " 20

ORDERED By The Zoning Commissioner of Baltimore County, this

required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning

Zoning Commissioner of Baltimore County.

AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS
ALL
OTHER

REVIEWED BY: UC/Z DATE 11/29

Contract Purchaser:

City and State

City and State

Attorney for Petitioner:

John Gontrum

(Type or Print Name)

809 Eastern Blvd.

Essex, Md. 21221

Attorney's Telephone No.: 301-686-8274

Signature Landex Corporation

Warwick, R.I. 02886

t# S. Siegel, President

250 Centerville Road, Bldg. 6

following Yorkway Apartment Buildings: 2517 Yorkway

December 29.

The following properties 2609 Yorkway, 2619 Yorkway, 2527 Yorkway and 2529 Yorkway have all previously been found to have legal nonconforming uses. To my knowledge, there are no zoning "inlations nonconforming uses. To my knowledge, there at no zoning totalions outstanding on any of these buildings, and they may continue as four unit apartment buildings in conformance with the laws and regulations of Baltimore County.

J. Robert Haines
Zoning Commissioner

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William K. Woody, L.S.

John M. Cosaraquis, L.S. (Ret.) KCW Consultants, Inc.

Civil Engineers and Land Surveyors 1777 Reisterstown Road Commercentre, Suite 175 Baltimore, Maryland 21208

(301) 484-0894 / 484-0963 November 29, 1988

LANDEX CORPORATION

12th ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

Baltimore County

J. Robert Haines

494-3353

Zoning Commissioner Office of Planning & Zoning

John B. Gontrum, Esq.

809 Eastern Boverlard Essex, Maryland 21221

Dear Mr. Gontrum:

office will do same.

cc: Mr. Walter Stealey

Ms. Judith S. Siegel File

RE: Petitions for Special Hearing.

Your Client: Landex Corporation

CASE NUMBERS: 89-249-SPH thru 89-264-SPH

Date of Hearing: Thursday, December 29, 1988 at 9:00 a.m.

Please be advised that \$1,450.08 is Jue for advertising and posting of

the above referenced properties. All fees must be paid prior to the

hearings. Do not remove the sign and post set(s) from the properties.

THIS FEE MUST BE PAID ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT

Please make your check payable to Baltimore County, Maryland and bring

Maryland 21204 fifteen (15) minutes before the hearings are scheduled

Please note that due to the number of signs to be returned, here will

Very truly yours,

J. ROBERT HAINES

Baltimore County

Zoning Commissioner of

* \$ 90.63 each frogerty

be no need for your client to remove and return the signs, as this

it to the Zoning Office, County Office Building, Room 111, Towson,

Towson, Maryland 21204

PETITIONER/CONTRACT PURCHASER: 250 Centerville Road, Bld. 'F'

Warwick, Rhode Island 02886 Attn: Ms. Judith Siegel (401) 732-5430 PROPERTY DESCRIPTION TO ACCOMPANY PETITION FOR SPECIAL HEARING

BEGINNING for the same at a point on the northeasterly line of Yorkway as now laid out 50 feet wide distant 110.16 feet southeasterly measured along the said northeasterly line of Yorkway from the southeasterly line of Leeway as now laid out 60 feet wide, all as shown on "Plat No. 4 of Dundalk", and running thence North 40 degrees 38 minutes 52 seconds East 102.58 feet, part of which distance is intended the southwesterly line of a 14 foot alley there situate, and as shown on said Plat; thence binding on the southwesterly line of said alley the two following courses and distances; on a curve to the left with a radius of 3078.35 feet for a distance of 2.42 feet and South 49 degrees 17 minutes West 102.53 feet, part of which distance is intended to be along the center of a party wall there situate, to intersect the said northeasterly line of Yorkway; thence binding on the said northeasterly line of Yorkway North 49 degrees 21 minutes 8 seconds West 49 feet to the place of beginning; the improvements thereon being known as No. 2605 Yorkway.

#2605 YORKWAY ACC. # 12-11-047661

Dennis F. Rasmussen

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY 89-758-SPH Date of Posting 12/6/87 Special Hearing Petitioner: Londex Corporation - Louis Pugloserstux Location of property: NE/S Yorkway, 145 5E/ Las way Location of Signer Forting Yarkway approx, 25 Fr. readway on

CERTIFICATE OF PUBLICATION

OFFICE OF Dundalk Eagle

4 N. Center Place P. O. Box 8936 Dundalk, Md. 21222

at 9:00 a.m.
SPECIAL HEARING: Nonconforming
use of 2605 Yorkway (four apart-In the event that this Petition is granted, a building permit may be is-sued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing set above or presented at the hearing.

J. ROBERT HAINES

Baltimore County 3

Zoning Commissioner
Office of Planning & Zoning
Towrson, Maryland 21204
494-3353
NOTICE OF HEARING

The Zoning Commissioner of Balti-more County, by authority of the Zon-ing Act and Regulations of Baltimore County will hold a public hearing on

the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as fol-

Petition for Special Hearing CASE NUMBER: 89-258-SPH NE/S Yorkway, 149' SE of c/1 of Looway (2505 Yorkway)

2th Election District

December 8,

THIS IS TO CERTIFY, that the annexed advertisement of J. Robert Haines in the matter of Zoning Hearings - Case # 89-258-SPH - P.O. #07728 - Req. #M20499 - 80 lines @ \$40.00 was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week

********* weeks before the 19_{88} ; that is to say, the same was inserted in the issues of Dec. 8, 1988

Kimbel Publication, Inc.

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494-3353 J. Robert Haines Zoning Commissioner

Dennis F. Rasmussen
County Executive

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Special Hearing CASE NUMBER: 89-258-SPH NE/S Yorkway, 149' SE of c/l of Leeway (2605 Yorkway) 12th Election District - 7th Councilmanic Legal Owner(s): Louis Puglese, et ux Purchaser(s): Landex Corporation
HEARING SCHEDULED: THURSDAY, DECEMBER 29, 1988 at 9:00 a.m.

SPECIAL HEARING: Nonconforming use of 2605 Yorkway (four apartments)

In the event that this Petition is granted, a building permit may be issues within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES Zoning Commissioner of Baltimore County

CERTIFICATE OF PUBLICATION

TOWSON, MD. December 9 , 1968 published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on December 8, 1988.

PO 07747

89-258-SPH

price \$35.63

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT 01-615-000 RECEIVED Judith S. Siegel, President, Landex Corp. 39 Major Potter Road 250 Centerville Road Warwick, RI 02886 Building #6 Filing Fee for Special Hearing (1 of 17) Items # 216-232 Yorkway Non-conforming apartments VALIDATION OR SIGNATURE OF CASHIER The state of the s

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

NOTICE OF HEARING

The Zorang Commissioner of Baltimore County, by authority of the Zoning Act and Heguletons of Baltimore County will hold a public hearing on the properly identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeetic Avenue in Townon, Maryland 21204

Petition for Special Hearing
Case number: 89-258-SPH
NE/S Yorkway, 149' SE of of
1 of Leeway (2805 Yorkway)
12th Election District
7th Counciments:
Legal Owner(s):
Louis Puglese, et ust
Purchaser(s):
Landex Corporation
Hearing Date: Thursday,
Dsc. 29, 1988 at 9:00 a.m.

Special Hearing: Nonconforming use of 2605 Yorkway (four apertments)
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the lesuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

December 20, 1988



Judith S. Siegel, President 250 Centerville Road Building Six Warwick, Rhode Island 02886

> RE: Case Numbers 89-249-SPH through 89-264-SPH - Yorkway

Dear Ms. Siegel:

Upon review of the documentation which you have submitted in the above referenced cases supporting the evidence of a noncommorming use in the 16 locations on Yorkway which are the subject of the above referenced cases, I am satisfied that if all of the dwellings were constructed with four dwellings prior to January 2, 1945 that opviously an apparent nonconforming use existed at one time. Due to the extreme emergency of your mortgage obligations prior to December 31, 1988, I will provisionally approve the building permits subject to a final determination upon presentation of evidence in the hearing on December 29th. The 16 cases have been advertised and a hearing will occur on the 29th which will allow any protestants to provide any evidence in opposition to the existence of the nonconforming use.

Very truly yours,

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

J. Robert Haines TO Zoning Commissioner

Date__ December 28, 1988 Pat Keller, Deputy Director FROM Office of Planning and Zoning

Landex Corporation SUBJECT Zoning Petition Nos. 89-249-X thru 89-264-X

The applicant is requesting a special hearing to establish four apartment units within 19 buildings, the majority of which constitute York Park as shown on the applicant's site plan dated Outober 20, 1988. It is not clear from the applicant's submittal if buildings 2615, 2609, 2527 and 2529 are included in this request. Baltimore County has been involved with various improvements to this project. Money has been utilized in the past to rehabilitate and upgrade apartments within this project. There has also been an effort to clean up the railroad right-of-way that is located along the rear of block No. 9. Staff has no detailed comments or recommendation regarding this request.

PK/sf

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PETITIONER'S EXHIBIT 5

NOV 29 '88 16:47 M.E. ASSOC. /DC DIV.

VETERANS ATTENTION

THE MOST SENSATIONAL OFFER EVER MADE. BRICK APARTMENT HOUSES 4 Individual Apartments In Each House. EACH APARTMENT HAS

EXAMINA MIAM MORT SONARTH STARATS LARGE LIVING ROOM SIZE 12 FEET S INCHES WIDE BY 17 FEET S INCHES LONG. LARGE BEDROOM BIZE IS FEET & DICHES LONG AND IS FEET & DICHES WIDE SEDROOM HAS TWO SEPARATE CLOSESS. EARCE THE SATHROOM WITH BATHTUB AND SHOWER SATH AND LARGE LINER CLOSET. HOT WATER HEATING PLANT WITH SEPARATE THERMOSTAT IN EACH APARTMENT. SEPARATE STORAGE ROOM IN BASEMENT FOR EACH APARIMENT. LAUNDRY TURE AND TOLLET IN PAREMENT, HARDWOOD ILOORS AND SUB FLOORS. CHURCHES OF ALL DENOMINATIONS, PLATGROUNDS AND MODERN SHOPPING CENTER HEARIT, AND A NEW MILLION

DOLLAR MIGH SCHOOL WITHIN TWO BLOCES, SALT WATER SATING BEACH WITHIN SIYE MINUTES RIDE. INCLUDING CHOUND I'RICE \$17,000.00 CENTER HOUSES BLIGHTLY LOWERS BUILT IN 1949 CONSTRUCTION OF THESE HOMES WAS SUPERVISED AND INSURED BY FEDERAL HOUSING ADMINISTRATION .

IF YOU HARE A CASH PAYMENT OF \$500.00 AND FINANCE YOUR MORTGAGE UND'R FALA. VETERANS ADMINISTRATION APPROVED LOAN, YOUR INCOME AND EXPENSES WOULD BE AS FOLLOWS: Your rent received from two speciments at \$43.00 per wan extenses would be as follows: TOTAL RECEIVED PER HONTH \$176.00

YOUR MORTGAGE WOULD BE \$14,509.00 FOR 20 YEAR TERM YOUR MONTHLY PAYMENT ON THE MORTGAGE WOULD BE MITTEREST FOR TIRST MONTH... I/IS OF YOUR ANNUAL COUNTY ZAXES FAIL INSURANCE. 1/12 OF YOUR FIRE MEURANCE.... YOUR TOTAL MONTHLY PAYMENT ON MORTGACE

Balance of Justine left to you after murigage payment YOUR OTHER YEARLY EXPENSES FOR NUMBING THE HOUSE ARE COAL USED, 18 TONS AT \$12.00 PER TON. WATER USED PER YEAR (AVERAGE)... ELECTRICITY USED PER YEAR INVERAGEL ... MAINTENANCE OF FARE, STABRY, LIGHTS, ETG..... DIVIDED BY 12 MONTHS, EQUALS PER MONTH......

AMOUNT LEFT FROM MONTHLY HENT AFTER PAYING MORTCAGE AND ALL EXPENSES 12. 22.75 (1.1.1.2.75) YOUR TOTAL MONTHLY PROFIT OR YOU CAN LIVE IN ONE APARTMENT RENT FIRE AND STILL HAVE A NICE INCOME THE AND BEE THE FURNISHED SAMPLE APARTMENT 1ST FLOOR 2554 YORKWAY OPEN DAILY-SATURDAY-SUNDAYS-12 NOON TO 7:30 P. M.

Take 26 ear to Daudalk and Liberty Parkway; walk to end of 2500 block Liberty Parkway (Leeway); turn 1972 left on Leaway I block. Sample House on corner.

JEROME J. GEBHART, Agent PHONE DUNDALK 1701

> PETITIONERS EXHIBIT 2

AFFIDAVIT

My name is James Thompson and I am the Zoning Enforcement Supervisor for the Department of Planning and Zoning in Baltimore County, Maryland. I have been employed in the Zoning Office as a Zoning Enforcement Officer and as a Zoning Inspector for 11 1/2 years. For the pat. 6 years, I have acted as the Chief of the Zoning Enforcement Section. Over these years, I have become acquainted with the apartment buildings on Yorkway in the Dundalk area of Baltimore County. Numerous violations have been filed against various units on the Yorkway complex for exceeding the permitted number of units within the given zone. A review of the zoning records on the numerous violations which we have researched over the past decade indicates that the apartment units on the 2500 and 2600 block of Yorkway were all built about the same time in 1943 and 1944. The units were all built as four (4) unit apartments. When zoning became effective in January in 1945, these apartment buildings were classified as a Class D residential zone. This zone allowed three (3) units or more per dwelling. However, the original regulations provided for non-conforming uses as follows:

"A lawful non-conforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such non-conforming use to a conforming use, or any attempt to change from such

> PETITIONERS EXHIBIT 4

AFFIDAVIT OF NANCY CAPECCI

- I, NANCY CAPECCI hereby certify that I am over 18 years of age and am competent to testify as follows:
- 1. My husband and I first purchased 2528 Yorkway in 1946 and lived there from 1947 through 1962. We continued to own that property until 1985, but rented it between 1962 and 1985. I reacquired the property in 1987.
- 2. During the period of time that I lived at 2528 Yorkway, as well as the period that I was visiting the property on a weekly and sometimes a daily basis in my capacity as a landlord, I was acquainted with the other properties along Yorkway.
- 3. I have testified in Case Number 89-103 and have given an Affidavit in that case. My testimony and Affidavit are correct with respect to the facts recited. In Case Number 89-103-SPH I identified the flier, a copy of which is attached hereto and made a part hereof as part of the original advertising for the premises along the 2500 and 2600 Yorkway.
- 4. All of the apartment buildings in the 2500 and 2600 block of Yorkway were originally built prior to 1945 as four unit apartments. Some of the units had basement apartments or later added basement apartments to them.
- 5. I have also testified in Case Number 88-14-SPH before the Board of Appeals with respect to 2619 Yorkway, and feel competent to testify that all of these buildings which are the subject to the case here today were originally built prior to 1945 as four

PETITIONER'S EXHIBIT 3A

APPIDAVIT

My name is Connie Ports and my address is Apartment B, 2607 Yorkway, Dundalk Maryland 21222. I first moved to the Yorkway area in 1963 and after leaving for a short while, I moved back again in 1971. I have acted as a manager for several of the apartment buildings in the 2600 block of Yorkway and at one time managed 2619 Yorkway. I testified before the Baltimore County Board of Appeals in Case No. 88-14 with respect to 2609 and 2619 Yorkway. It was my testimony at that time under oath, that I have been in all of the buildings along the 2600 block of Yorkway and that they were all identical as four (4) unit apartment buildings, except that some apartments had added an additional apartment in the basement. It was and is my testimony that these buildings were all constructed originally as four (4) bedroom unit apartments and during the familiarity with these apartments for the 1960's up to the present time, these buildings have all been used continuously and uninterruptedly with four (4) apartment units per building.

I solemnly declare and affirm that the above statements are true to the best of my knowledge, information and belief.

NOG DON

I hereby certify that on this \bigotimes 1988, before me, _____, Notary Public for said State and County, personally appeared CONNIE PORTS, Affiant, and solemnly affirmed under the penalties of perjury and under oath in due form of law that the contents of the foregoing paper are true to the best of her knowledge, information and

My commission expires: 7/1/90

LAW FIRM GONTRUM & HENNEGAN PETITIONER'S EXHIBIT 3B

10/24/88:819.RG:ECC10239 PETITIONER'S

ZONING COMMISSIONER SW/C Yorkway and Leeway (2532 and 2534 Yorkway) 12th Election District

BALTIMORE COUNTY 7th Councilmanic BRIJDEO SHIVNARAIN, DANIEL ABBOTT, et al Case No. 89-103-SPH Petitioners * * * * * * * * *

AFFIDAVIT

- I, Marge Capecci, hereby certify that I am over 18 years of age and competent to testify as follows:
- 1. I first lived at 2526 Yorkway in 1945 and lived there for approximately two (2) years. We attempted to purchase but were unable to do so and instead rented the property. We then moved to 6918 Homeway, very nearby to this apartment neighborhood, and continued to frequent the Yorkway area to visit family and friends over the course of the next forty (40) years up to the present.
- 2. I specifically recall the property known as 2534 Yorkway, an end of group, in that same originally contained four (4) apartment dwelling units with a sales office in the basement, which in 1946 or shortly thereafter, was converted to a fifth apartment dwelling unit in the basement.
- 3. I specifically recall my children playing with the children of families who lived in that basement apartment at 2534 Yorkway, and can state that I have frequently visited the process of the state that I have frequently visited the state of the st

IN THE MATTER OF THE APPLICATION OF LOCATED ON THE NORTHEAST SIDE OF YORKWAY, 225.52' and 522.72' SOUTH-EAST OF LEEWAY (2609 and 2619 YORKWAY) 12th ELECTION DISTRICT 7th COUNCILMANIC DISTRICT

BEFORE COUNTY BOARD OF APPEALS

BALTIMORE COUNTY

CASE NO. 88-14-SPH

OPINION

This case comes before this Board on appeal from a decision of the Zoning Commissioner that the petition for nonconforming use for 2509 Yorkway be dismissed and that the petition for nonconforming use for 2619 Yorkway be denied. The case was heard this day in its entirety.

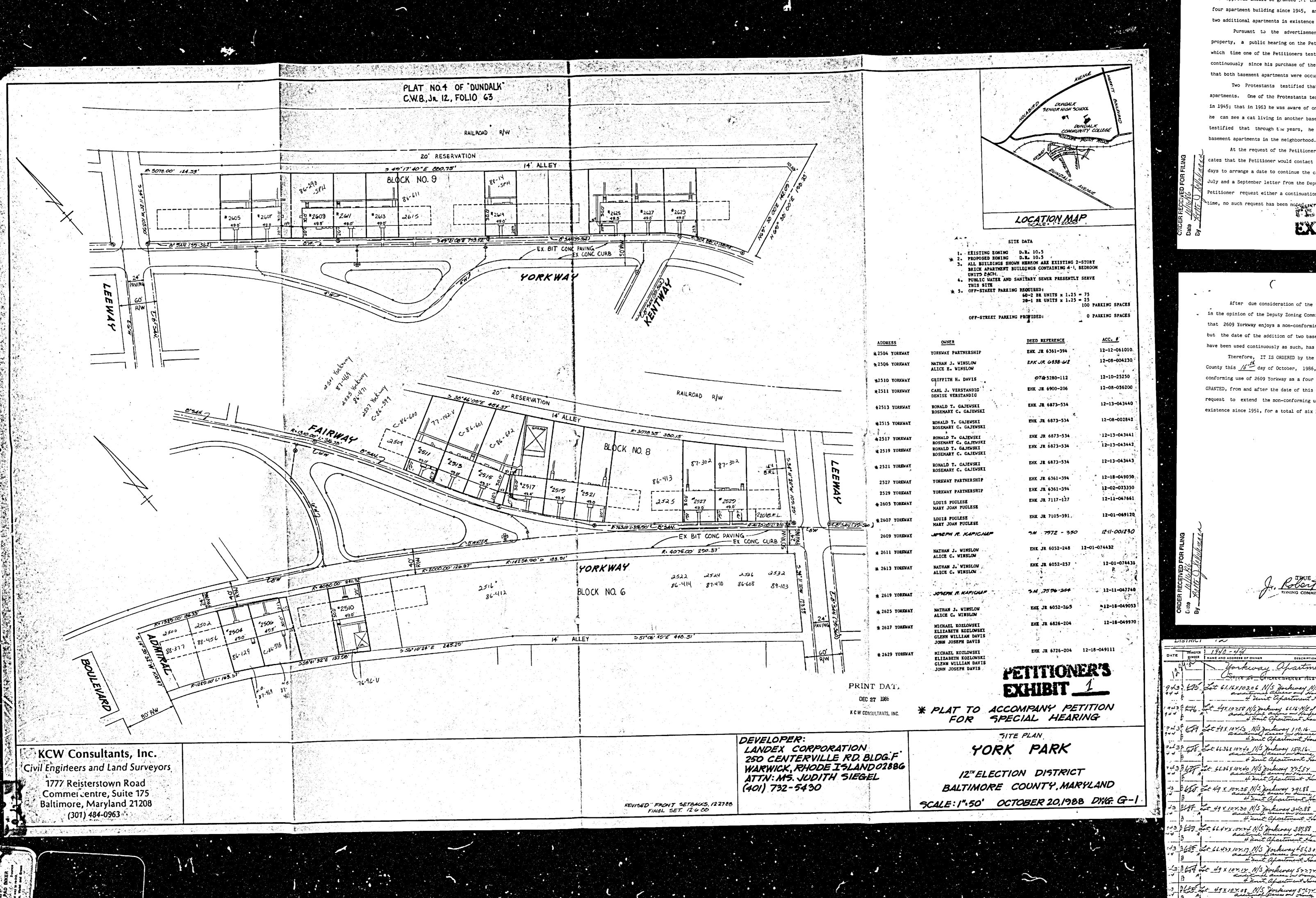
At the onset of the hearing, it was determined that the nonconforming use on 2609 Yorkway had been ruled on on October 16, 1986 in Case No. 86-229-SPH and that the nonconforming use was granted and that 2609 Yorkway was not an issue before this Board. The only issue to be decided by this Board was

the nonconforming use issue on 2619 Yorkway.

Petitioner presented James Thompson, Zoning Enforcement Coordinator for Baltimore County, who testified to the zoning history of this location as far back as 1945, at which time apartments were permitted in the then existing C Residence zone. Joseph Kapichak testified that he purchased the building in June of 1987 and that it contained five apartments, two on the second floor, two on the first floor, and one in the basement, and that all the buildings in this immediate area are of identical construction.

Theodore Eklund, a neighbor some 73 years old, testified that he moved into the area in 1950 and that 2619, at that time, contained four apartments.

EXHIBIT Z



IN RE: PETITION FOR SPECIAL HEARING N/S Yorkway, 225° E of Leeway (2609 Yorkway) DEPUTY ZONING COMMISSIONER 12th Election District OF BALTIMORE COUNTY Kenneth W. Martin, et ux, Case No. 86-290-SPH

The Petitioners herein request a Special Hearing to determine whether or nct approval should be granted for the non-conforming use of 2609 Yorkway as a four apartment building since 1945, and furthermore, the non-conforming use of two additional apartments in existence since 1951.

Pursuant to the advertisement and posting of the above referenced property, a public hearing on the Petition was held on January 28, 1986, at which time one of the Petitioners testified that six apartments had been rented continuously since his purchase of the property in 1980. A witness testified that both basement apartments were occupied from spring to fall of 1957.

Two Protestants testified that the building was constructed for four apartments. One of the Protestants testified that the building was constructed in 1945; that in 1963 he was aware of one basement apartment; and that currently he can see a cat living in another basement apartment. The other Protestant testified that through the years, he gradually became aware that there were

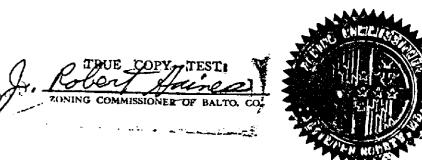
At the request of the Petitioner, the case was continued. The file indi-

noted to the second sec EXHIBIT 5

After due consideration of the testimony and evidence presented herein, in the opinion of the Deputy Zoning Commissioner of Baltimore County, it appears but the date of the addition of two basement apartments and whether or not they

existence since 1951, for a total of six living units, is hereby DENIED.





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